

Nursing Home Workgroup Meeting Notes 12/15/2016

- I. Call to Order
- II. Charge 6 – Quality Metrics – Discussion of Potential Changes for Project Delivery Requirements
 - a. Discussed in August. Agreed no change needed in the standards for 9(2)(f) and 9(2)(g). Would handle administratively with a stipulation in the approval letter. Would contact QIS.
 - b. Do we need any changes to the project delivery requirements related to quality?
 - i. No one had any suggestions for changes.
 - c. Melissa raised the question of whether or not the quality measure related to twice the statewide average of level D or above citations is biased against the larger facilities and wondered if we should look at the average citations per bed.
 - i. Others felt that this wasn't really a problem in practice because the level D or higher citations really don't relate to the number of residents and have not seen a difference between larger and smaller facilities.
 - ii. State does not believe they would be able to get the average citations per bed data from CMS/LARA.
- III. Charge 7 – Acquisition Requirements to reflect a situation where the NH-HLTCU is being acquired by a new entity that does not currently operate a NH-HLTCU.
 - a. 9(1)(a) language talks about an applicant with an existing facility(s). But when you have an applicant acquiring an existing facility that doesn't already have a facility, then the Department currently applies the language to the facility being acquired.
 - b. Department proposed adding 9(1)(g) and 9(2)(e) to make this more clear in the standards (see language posted on website).
 - c. This prevents a new entity from acquiring a struggling facility.
 - d. Existing operators will usually create a new entity to acquire a facility to limit the liability on their existing facilities/entities.
 - e. Department suggested, and the group agreed to, a modification to their proposed 9(1)(g) and 9(2)(e) language to allow a new entity to acquire a struggling facility but require debt to be paid up front and participate in quality improvement program for 5 years.
- IV. Charge 1 – NH-HLTCU Replacements and the Relocation of Beds
 - a. The group confirmed the concurrence with a change in Section 14 to exempt from comparative review applications for the replacement of a nursing home or a portion of nursing home beds outside the replacement zone but within the planning area under the new design model.
- V. Charge 3 – High Occupancy
 - a. The group reviewed the high occupancy proposed language and suggested the following modifications:
 - i. (D) The proposed project must have no more than 2 beds per resident room AND must eliminate all 3 and/or 4 bed wards within the existing facility, if applicable, as part of the proposed project.

- ii. (F) The applicant facility, upon approval of high occupancy beds, cannot relocate any beds from the facility or replace a portion of beds to a new site under Section 7(3)(d), from the time of approval of the high occupancy beds until at least 24 months from the date of the licensure of the new beds at the facility.
- iii. (B) The applicant facility has experienced an average occupancy rate of 92% or above for the most recent 12 consecutive months, as verifiable by the Department.
 - 1. Need to show 90% or above for the 12 months prior (did not discuss specific language).
- iv. (C) The applicant facility has not decreased the number of licensed beds within the 24 months preceding the application date.
- v. Need to add the 24 month post licensure restriction to Section 7(3)(d) and Section 8.

VI. Charge 4 – Special Populations

- a. Need to add a definition of a “Bariatric Patient” which is a patient weighing over 400 pounds; and “Bariatric Room” which we can take from Section 10(13) in the existing standards.
- b. Lisa Rosenthal suggested adding a requirement that the beds be located on the first floor for the safety of the patient. If there were a fire and the elevators were shut down, it is unsafe to have a 400+ lb patient and needing to move them down the stairs.
 - i. The group agreed to add the requirement that the beds from this pool must be located on the first floor. They felt that if a facility was going to be granted beds from this special pool they should be held to a bit of a higher standard for safety.

VII. Charge 5 – Bed Need Formula and Data Sources

- a. The group reviewed the re-run of the bed need at both .90 ADC for the entire state and .95 ADC for the entire state. Currently the methodology uses .90 for rural counties and .95 for the rest of the counties.
- b. We discussed whether or not it makes sense that rural facilities should expect a lower occupancy. We previously discussed a lower high occupancy requirement for rural facilities and agreed that it didn’t make sense to do so.
- c. Also discussed the fact that we have decided that 92% is considered high occupancy and so to calculate expected occupancy at 95% may not make sense.
- d. Paul Delamater did not have any reaction or commentary to the request to calculate them all the same.
- e. The group agreed to change the methodology to run all counties at .90 ADC. (Section 2(1)(b) and 3(e) will require revision.)
- f. Lisa Rosenthal suggests requiring that beds be available at the time of application instead of at the time of approval.
 - i. Tulika felt that the Department would prefer to not deny a pending application if beds become available during the review. CON standards changes apply to pending applications so this is consistent.
 - ii. David Stobb feels that the current practice/language works well and should remain.

- iii. Melissa Cupp made the point that recently the Department found themselves in a situation with the Psych Beds standards where they had to make a policy decision to hold over all Psych Beds application to the February 1st filing window because the timing of a standards change and the fact that the standards don't require beds to be available at the time of submission but rather at the time of decision created logistical concerns. She also noted that some applicants take advantage of the current rules to disadvantage newcomers into the market or less savvy applicants.
 - iv. The discussion had to be tabled to the next meeting because the group ran out of time.
- VIII. Draft Language – Working Document
 - a. The group reviewed specific draft language throughout the meeting but did not have time at the end to walk through the document overall.
- IX. Next Steps/Assignments
 - a. Although not specifically discussed, the Department will add language discussed and agreed upon to the working document for review at the next meeting.
- X. Identify Agenda Items for Next Meeting
 - a. Not discussed
 - b. January 12, 2017 meeting is cancelled. Next meeting will be February 9, 2017.
- XI. Adjournment